Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	
	)	
Inquiry Concerning the Deployment of	)	
Advanced Telecommunications	)	
Capability to All Americans in a Reasonable	)	
and Timely Fashion, and Possible Steps	)	GN Docket No. 07-45
to Accelerate Such Deployment	)	
Pursuant to Section 706 of the	)	
Telecommunications Act of 1996	)	
	)	
Fifth Notice of Inquiry	)	
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COMMENTS OF
THE UNITED STATES TELECOM ASSOCIATION

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INTRODUCTION AND SUMMARY

Advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.[1] The United States Telecom Association (USTelecom)[2] believes that this is due in large part to the Federal Communications Commission's commitment to establishing a regulatory environment for broadband Internet access services that benefits all American consumers and encourages the growth of innovative and efficient communications. While remaining vigilant in its protection of consumer safety, the Commission has removed economic regulation that increased broadband costs and hampered broadband innovation. The

[1] These comments are submitted in response to *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, GN Docket No. 07-45 (April 16, 2007) (NOI).

[2] USTelecom is the premier trade association representing service providers and suppliers for the telecommunications industry. USTelecom members provide a full array of services, including broadband, voice, data, and video over wireline and wireless networks.

Commission's long-awaited Wireline Broadband Reclassification Order[3] (the Wireline Broadband Order or Order) and other deregulatory orders have helped to increase the number of broadband subscribers and broadband connections nationwide, to increase the number of price and service options consumers have for broadband at home, and to encourage investment in advanced services and new infrastructure for delivering video to consumers throughout the nation.

Consumers have already benefited from the removal of regulatory burdens that stifled head-to-head competition of DSL and cable modem providers in the past. Removal of these burdens has allowed incumbent local exchange carriers (ILECs) to invest more heavily in their networks and to deploy innovative broadband capabilities that lower prices for consumers and help expand broadband's reach to all Americans. USTelecom members are no exception. They are investing heavily to bring advanced services to all parts of the country. In rural areas, USTelecom's members are overcoming the challenges of geography and low population density to deploy broadband and offer video through multiple platforms and access points. USTelecom members are also upgrading capacity and investing heavily in video, which is driving substantial investment in faster broadband and hastening the march of fiber to the home all across America.

The United States has the most competitive broadband market in the world—with telecommunications, cable, broadband-over-powerline, and wireless (3G wireless, WiMAX, WiFi, and 700 Megahertz (MHz) spectrum) broadband offerings by hundreds of different providers. U.S. consumers benefit from vigorous competition among all of these networks and

[3] *Appropriate Framework for Broadband Access of the Internet over Wireline Facilities, et al.*, CC Docket Nos. 02-33 *et al.*, Report and Order and Notice of Proposed Rulemaking at 3 (rel. Sept. 23, 2005).

providers. A competitive market is the best guarantor that advanced services are being deployed in a reasonable and timely basis and in a way that consumers value.

Still, more can be done to speed the deployment of broadband to parts of the country that are not yet served. USTelecom supports a variety of legislative and policy initiatives to extend broadband's reach to all parts of the nation, including changes in the Rural Utilities Service (RUS) program to better target areas not served, improve loan processing, and expand program eligibility, public/private partnerships to encourage the spread of broadband, efficient use of spectrum, resolution of issues regarding program access and exclusive access contracts for multiple dwelling units (MDUs), and tax policies and flexible business models that promote broadband deployment.

Market flexibility is the key to expanding the reach of broadband to unserved households. USTelecom urges the Commission to continue on its course of adopting market-based regulatory policies that will encourage further broadband deployment and investment and support targeted programs that will allow service providers to fill in any remaining broadband gaps. These policies will allow Americans to reap the benefits of the next wave of Internet investment and innovation.

DISCUSSION

I. Broadband Subscriptions Have Skyrocketed Since The Wireline Broadband Reclassification Order And Other Deregulatory Orders.

In its September 23, 2005 Wireline Broadband Order, the Federal Communications Commission classified wireline Broadband Internet access service as an information service under the Telecommunications Act of 1996.[4] The result was streamlined regulatory

[4] 47 U.S.C. § 153(20).

requirements applicable to the former Bell Operating Companies (BOCs) that put DSL and cable modem broadband services on the same regulatory footing. Recognizing that changed market conditions and technological advances have led to a wide variety of competitive providers and offerings, the FCC eliminated precedents in its *Computer Inquiry* line of decisions[5] that required BOCs to provide tariffed, non-discriminatory access transmission arrangements. As a result, BOCs no longer have to break apart their broadband services in order to provide broadband transmission services to ISPs at regulated, tariffed rates. The Order followed on the heels of the Supreme Court's *Brand X* decision,[6] which upheld classification of cable modem services as information services exempt from the obligations of Title II, including the obligations to pay a percentage of revenues into the federal Universal Service Fund.

The Wireline Broadband Order has been a success. Like the Triennial Review Order that removed unbundling requirements for fiber-to-the-home loops[7] and other FCC orders that have oriented the communications marketplace away from government-managed competition to market-based competition,[8] the Wireline Broadband Order has helped spur the explosion of

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[5] *See* Wireline Broadband Order n. 9.
[6] *National Cable & Telecommunications Association et al v. Brand X Internet Services et al.*, 545 U.S. 967, 125 S. Ct. 2688 (June 27, 2005).
[7] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Report and Order and Order on Remand, CC Docket Nos. 01-338, 96-98, and 98-147 (rel. Aug. 21, 2003).
[8] *See, e.g., Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks*, Declaratory Ruling, WT Docket No. 07-53 (rel. March 23, 2007), declaring wireless broadband Internet access an information service under the Communications Act of 1934, as amended (the Act); *United Power Line Council's Petition for Declaratory Ruling Regarding the Classification of Broadband over Power Line Internet Access Service as an Information Service*, Memorandum Opinion and Order, WC Docket No. 06-10 (rel. Nov. 7, 2006), declaring broadband-over-power line-enabled Internet access service an information service under the Act; *Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities, Internet Over Cable Declaratory Ruling, Appropriate Regulatory Treatment for*

broadband coverage across the nation. The Order was intended to expand the availability of broadband to all Americans by removing outdated regulations and leveling the regulatory playing field for broadband between cable operators and ILECs,[9] and it is doing this. Not only has the number of Americans who have broadband at home jumped 40% from 60 million in March 2005 to 84 million in March 2006[10]—but the number of DSL connections is growing, the number of DSL subscribers is catching up to the number of cable modem subscribers, and the price of DSL is decreasing.

The availability of DSL connections is growing. As of June 30, 2006, high-speed DSL connections were available to 79% of the households to whom ILECs provided local telephone service.[11] This represents an increase of 3% over the previous year's report.[12] In 2006, DSL was available in 82% of zip codes[13] whereas it was available in 78% of zip codes the previous year.[14]

The number of DSL subscribers is catching up to the number of cable modem subscribers. During 2006, DSL lines[15] increased by 6.3 million lines compared to an increase of

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Broadband Access to the Internet Over Cable Facilities, Declaratory Ruling and Notice of Proposed Rulemaking, GN Docket No. 00-185 and CS Docket No. 02-52 (rel. March 15, 2002), declaring high-speed cable-modem service an information service under the Act.

[9] Order at ¶1, "Finally, the actions we take in this Order allow facilities-based wireline broadband Internet access service providers to respond to changing marketplace demands effectively and efficiently, spurring them to invest in and deploy innovative broadband capabilities that can benefit all Americans . . . ."

[10] Home Broadband Adoption 2006, Pew Internet and American Life Project at i (May 28, 2006) available at http://www.pewinternet.org/pdfs/PIP_Broadband_trends2006.pdf (Pew Report).

[11] *High-Speed Services for Internet Access: Status as of June 30, 2006*, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission at 2 (rel. Jan. 31, 2007) available at www.fcc.gov/wcb/stats (2006 High-Speed Access Report).

[12] *High-Speed Services for Internet Access: Status as of June 30, 2005*, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission at 3 (rel. April 2006) available at www.fcc.gov/wcb/stats (2005 High-Speed Access Report).

[13] 2006 High-Speed Access Report at 4.

[14] 2005 High-Speed Access Report at 4.

[15] These were asymmetric DSL lines.

4.6 million lines for cable modem service.[16] DSL connections constitute 50% of all home broadband connections while cable modems have a 41% share.[17] This represents a dramatic reversal in cable and DSL market share: When the Pew Internet Project first reported on the composition of the home broadband market based on March 2003 data, 67% of home broadband users logged on using cable modem while only 28% used DSL.[18] In February 2004, of the 48 million adults who had high-speed access at home, 20 million of these used DSL connections while 26 million used cable modem.[19] By March 2006, of the 84 million adults who had broadband at home, 42 million used DSL compared to 34 million who used cable modem. This is an increase of 22 million DSL users compared to an increase of eight million cable modem users. DSL clearly has been gaining subscribers faster than cable.

DSL prices have been dropping. The Pew Internet Project reports that monthly bills for DSL fell from $38 in February 2004 to $32 by December 2005.[20] This makes DSL $9 per month less expensive than cable modem high-speed Internet access.[21] This price drop has benefited middle and lower middle income groups especially, which are reported to be the fastest growing segment of the market. According to Pew, 55% of the persons in that group have DSL while 35% have cable modem for their high-speed access at home.[22]

[16] 2006 High Speed Access Report at 2.
[17] Pew Report at ii (May 28, 2006).
[18] *Id*.
[19] *Id*. at 6.
[20] *Id*. at iv.
[21] *Id*. at 7.
[22] *Id*.

II. US Telecom Members Are Investing Heavily To Bring Advanced Services to Consumers Throughout the Country.

Overall, North American telecommunications companies are projected to spend $70 billion this year on new broadband infrastructure.[23] USTelecom members are key players in investing to increase deployment of advanced services through multiple platforms and access points. They are investing heavily in upgrading capacity in order to bring advanced services to consumers throughout the country.

Impediments to Rural Broadband Deployment

Rural telecommunications carriers must be able to build networks to provide advanced telecommunications services. But many areas of the United States are geographically vast and sparsely populated, making it expensive to build networks. In addition, many people living in rural areas may not own computers or may not be interested in switching from dial-up to broadband without more compelling Internet content and applications. Communications providers face significant obstacles to expanding broadband's reach to the parts of America where it could possibly do the most good.

Rusk County, Wisconsin

In Rusk County, Wisconsin, for example, where the United States Department of Agriculture (USDA) sponsored a project to help deploy a wireless broadband network, the economic barriers to rural broadband deployment are abundantly clear. According to one researcher, Rusk County reports approximately 16 persons and eight households per square mile. Lawrence, a farm township in the southeast corner of the county, has only 240 people and 90

[23] Bobby White, "Spending Wave Buoys Makers of Network Gear," *The Wall Street Journal Online* (Feb. 14, 2007) available at http://online.wsj.com/article/SB117142538050108158.html (*Wall Street Journal* Article).

households in a 47.7 square mile area, representing very low densities of five and two, respectively. Lawrence is typical of Rusk County. More than two-thirds of the county population resides in such low-density townships. Using a county average of eight housing units per square mile, such density will not support an investment of six access points per square mile at $5,000 each. Assuming an optimistic 24% subscription rate with two households in each area immediately subscribing to the service at $50 per month, it would require over four years to recover the investment without any allowance for operating costs. Allowing for even minimal operating costs, the payback period could easily extend beyond five years.[24]

Chugwater, Wyoming

Like those in Rusk County, some USTelecom members face similarly daunting challenges to broadband deployment. Chugwater Telephone Company (Chugwater) in Chugwater, Wyoming, for example, serves an area with severe geographic, demographic, and economic impediments to deploying broadband. The topography of Chugwater's service area includes rolling hills, mountains, and valleys. The population density of Chugwater's service territory is 0.4 persons per square mile. And, the service area is split demographically—with lower income residents, who cannot afford broadband at current prices, residing in the more densely populated town center where it is easier to deploy broadband and more affluent residents who are clamoring for broadband access residing outside of the town center on vast ranches and farms where it is more difficult for broadband to reach.

[24] Kenneth J. Schlager, "Technical Barriers to Broadband Telecommunications in Rural America" (April 28, 2006) available at www.ruraltelecon.org/index.php?q=book/print/26. This research was performed as a USDA broadband wireless research and development project in Rusk County, Wisconsin. This project seeks to develop a low-cost broadband wireless communications system that could be deployed in any rural county in the United States.

Chugwater deployed DSL services throughout its town center in January 2007, and has experienced a low subscription rate. This lack of interest in broadband among consumers who do not currently have it is not uncommon. According to a 2004 report from the National Telecommunications and Information Administration,[25] of households that were not connected to the Internet, 41.6% expressed that they did not need or were not interested in obtaining access.[26] Furthermore, the Pew Internet and American Life Project finds that of households that do have Internet access, 21% of them still rely on dial-up Internet access even though they have high-speed options available. In fact, nearly 60% of these dial-up users said they are not interested in switching to broadband.[27] As part of its analysis, the Commission will have to take into account that today's Internet may not be sufficiently valuable to some consumers to justify purchasing broadband service and will have to ensure that the regulatory environment allows for innovative new broadband offerings and flexible terms.

Chugwater remains committed to deploying broadband services to the areas of its territory where customer demand is stronger. It is currently exploring an unlicensed wireless solution that may help it expand its broadband footprint and is also exploring the possibility of obtaining an RUS grant. It has considered applying for an RUS loan, but the high poverty level of its service territory makes the risk of financing such a loan high.

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[25] "A Nation Online: Entering the Digital Age," United States Department of Commerce, Economics and Statistics Administration, the National Telecommunications and Information Administration (September, 2004) (NTIA Report) (available at: http://www.ntia.doc.gov/reports/anol/index.html).
[26] NTIA Report at 15.
[27] Pew Report at 9.

Multiple Platforms and Access Points

Fallon, Nevada

As the Rusk and Chugwater stories illustrate, some rural providers face enormous barriers to cost-effective deployment of broadband across rural America. Nonetheless, rural carriers, including many USTelecom members, continue to overcome barriers to broadband deployment and increase deployment of advanced services through multiple platforms and access points. For example, Churchill County Communications (CC Communications) in Fallon, Nevada, offers broadband service through DSL and a fiber-to-the-home (FTTH) platform. CC Communications serves an area of approximately 5,023 square miles having a population of approximately 27,000—a population density of just under five and a half persons per square mile. Approximately 95% of the residents in CC Communication's service territory can receive broadband. CC Communications has deployed a series of wireless hot-spots in its central town area, which DSL and FTTH subscribers may use free of charge for Internet access. Non-subscribers may also access the hot-spots for a nominal fee. In addition, CC Communications is using unlicensed spectrum in order to deploy its broadband services to one hard-to-reach, highly rural development. The area is in an extremely remote location approximately 65 miles from the central office. In order to succeed in this project, CC Communications is installing a Digital Subscriber Line Access Multiplexer (DSLAM) that will connect directly to the backhaul component of its network. Because upgrading to fiber is not a cost-effective option for CC Communications, the company is instead installing a 45 megabits per second (Mbps) ethernet radio that will link the development to the DSLAM. As a result, five additional connections can access the network, with the possibility of significant expansion to meet future demand.

Ephrata, Pennsylvania

D&E Communications, Inc. (D&E), a USTelecom member based in Ephrata, Pennsylvania and serving central and eastern Pennsylvania, provides comprehensive telephone and Internet access and communication systems networking services to residents and businesses through its companies Denver and Ephrata Telephone Company, Conestoga Telephone Company, and Buffalo Valley Telephone Company. For D&E, broadband deployment is a critical part of its companies' objectives.

In November 2004, Pennsylvania law[28] established a network-modernization plan that gave carriers the option to increase non-competitive service rates based on inflation changes without any productivity offset in order to fund broadband deployment by December 31, 2008. Every small rural carrier in Pennsylvania, including D&E, committed to deploy broadband[29] to 100% of its customers by this date. D&E has spent over $30 million in the past three years to upgrade its networks in order to meet this objective. The investment is seeing success. D&E's DSL/high speed Internet growth rates for 2004, 2005 and 2006 were 45%, 66%, and 41%, respectively, which represents net increases of approximately 9,000 additional lines in both 2005 and 2006. D&E is now able to serve 99% of the customer locations in its certificated area with broadband within ten business days.

[28] 66 Pa C.S. §§ 3011-3016.
[29] The Pennsylvania law defines broadband services and facilities with an upstream (customer-to- provider) transmission speed of 256 Kbps and downstream (provider-to-customer) transmission speed of 1.544 Mbps.

Prentiss, Mississippi

USTelecom member Windstream[30] is making a difference in the daily lives of its customers—who primarily reside in rural areas of the country. For example, the town of Prentiss, Mississippi, population approximately 3,000, petitioned Windstream to provide broadband. After much effort, Windstream launched broadband in Prentiss in December 2006. When it held a customer appreciation day to celebrate the launch of its new service, Windstream was overwhelmed by the response: Within four hours, 47 customers had signed up for broadband service. Subscriptions since then have continued to grow and now include over 20% of eligible customers in Prentiss. It has been Windstream's experience that customers embrace broadband and take advantage of the innovative products and services offered by Windstream.

Windstream provides voice, broadband, and entertainment services to its customers where it can make a business case to do so and its customers demand them. Windstream offers a variety of broadband products to its customers to meet their needs. Windstream offers speeds of 3 Mbps to 80% of its broadband capable lines and 6 Mbps to 22% of broadband capable lines. Windstream plans to begin offering 10-12 Mbps speeds to some customers in the fourth quarter 2007. Additionally, starting this year, Windstream introduced "Greenstreak", an innovative wireline broadband product designed for customers who rely primarily on wireless technology for their voice needs. In 2006, Windstream's broadband customer base grew by 65% after adding approximately 258,000 broadband customers. During that same time period, Windstream increased its broadband capable lines from 70% to 80% of its approximately 3.2 million access

[30] Windstream is an S&P 500 communications company formed in the summer of 2006 through the spin-off of Alltel's wireline business and merger of Valor Communications Group. Windstream provides voice, broadband, and entertainment services to customers primarily located in rural areas in 16 states.

lines. This effort continues. In the first quarter of 2007, Windstream added a record 59,000 broadband customers, increasing its total broadband customers to approximately 715,000. This represents a broadband penetration of about 22%.

Investing in Video and Driving Investment in Broadband

USTelecom members are investing in video services at a robust rate. In Northern California, for example, SureWest Communications rolled out high-definition television last year and has since added additional video channels and subscription-on-demand. The company is moving away from hybrid fiber/coaxial cable to fiber-optic cable, which will allow it to meet its goal of delivering 100 Mbps of bandwidth to each subscriber's home and carry video over Internet protocol television (IPTV). In addition, SureWest is already looking for ways to enhance an IPTV offering with digital video recorder capabilities and more synergies with its high speed data and voice offerings.[31]

Verizon estimates that its capital spending to upgrade its network and expand its fiber-optic systems will reach between $17.5 billion and $17.9 billion in 2007, up from $17.1 billion in 2006.[32] Verizon's FiOS TV is already a strong competitor to local cable television companies in many markets and will become an even bigger competitor over the next several years.

As a result of its Project Lightspeed broadband deployment efforts, AT&T is the only national provider to offer a totally IP-based video service, bringing customers a new level of service integration and features. It's U-verse™ IPTV service is commercially available today in 18 markets. AT&T plans to pass approximately eight million living units by the end of 2007 and 18 million living units by the end of 2008 as part of its initial deployment in its legacy 13-state

[31] *See* Jim Barthold, "Carrier Eyes Glass, HD as New Year Arrives," *Telecommunications Americas* at 14 (Jan. 2007).
[32] *Wall Street Journal* Article.

territory (which excludes the recently acquired BellSouth state territory). AT&T recently revised projections of $4.0 billion to $4.5 billion in spending over the 2007-2008 period on Project Lightspeed, bringing the total projected costs to between $6.0 billion and $6.5 billion between 2004 and 2008.

Video competition drives substantial investment in faster broadband and the fiber evolution. The expectation of a new revenue stream from multichannel video service—combined with deregulatory Commission action with respect to network-sharing obligations—is fueling wireline broadband deployment across the country, affording consumers additional choices of bundled services that include video, voice, and data offerings. Expanded broadband deployment, in turn, enables provision of more sophisticated video offerings in more communities throughout the country. In short, the Commission's policies have put in place a cycle in which increasing video competition drives further broadband competition, which in turn accelerates video competition, beginning the cycle anew.[33] The Commission reaffirmed this precept just last month, finding that "broadband deployment and video entry are 'inextricably linked'."[34]

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[33] *See* USTelecom Comments, *Implementation of the Cable Television Consumer Protection and Competition Act of 1992; Development of Competition and Diversity in Video Programming Distribution: Section 628(c)(5) of the Communications Act; Sunset of the Exclusive Contract Prohibition*, MB Docket No. 07-29 (April 2, 2007).

[34] *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992*, Report and Order and Further Notice of Proposed Rulemaking, MB Docket No. 05-311, FCC 06-180 at ¶ 51 (rel. Mar. 5, 2007). The Commission has recognized for some time that revenues from video services would be a driver of wireline broadband deployment. *See Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 18 FCC Rcd 16978, 17124-25, ¶ 240 (2003) ("The record indicates that carriers can earn significant returns on their fiber-based investment by providing a suite of services ranging from traditional voice to full-motion video.

Maximizing the consumer benefits of next-generation broadband will require policies that foster ongoing investment and innovation. The efforts of USTelecom's members to expand into the video market—which will increase broadband competition—will be thwarted if the Commission's program access rules, for example, do not protect them from anti-competitive behavior by cable programmers who have both the incentive and ability to deny new entrants full and fair access to programming. Where new entrants are denied access to programming, competition and investment in broadband infrastructure are compromised, to the ultimate detriment of consumers who have no wireline alternative available to them.[35] To avoid such an outcome, the Commission should continue its approach of removing barriers to entry into the multi-channel video programming market. Only thus can the Commission ensure the expansion of broadband's reach to all Americans.

In addition, the Commission should adopt policies prohibiting unreasonable exclusive contracts held by incumbent cable providers to deliver video services in MDUs. Unreasonable exclusive access agreements stifle competition and limit consumer choice. Many such exclusive access agreements were entered into before competitive choice was available in a particular locality or while the competitive provider was negotiating the franchising process and often last for terms of ten years or more—some even perpetually.

In fact, the potential rewards of fiber deployment may offset the likelihood that competitive LECs will view entry as uneconomic.").

[35] *See Id*. at 2.

III. The U. S. Market For Advanced Services Is The Most Competitive In The World, And A Competitive Market Is The Touchstone Of Whether Advanced Services Are Being Deployed To All Americans On A Reasonable And Timely Basis.

The U. S. market for advanced services is the most competitive in the world. First, unlike many countries with a single national wireline network, the U. S. can boast of two competing wireline networks, telecommunications and cable, and a vibrant set of competing wireless networks—with hundreds of different providers operating in these networks. In addition, the U.S. has a greater number and variety of broadband providers than other countries. Finally, the U.S. has more WiFi hotspots than any country in the world.

Unlike the majority of countries, which have only one national wireline telecommunications network, the United States has two major wireline networks—telecommunications and cable—each with hundreds of different providers. In addition, there is a vibrant wireless market in the U.S., including 3G wireless, WiMAX, WiFi, and 700 Mhz spectrum, which offers wireless services at broadband speeds. U.S. consumers benefit from vigorous competition among all of these networks.

In addition, the United States has more service providers than anywhere in the world. There are more than 1,323 broadband service providers[36] in the United States today. Beyond the telecommunications, cable, and wireless industries, there is a rapidly growing array of broadband-over-powerline, satellite, municipal, and other providers. Removal of regulatory burdens has removed uncertainty, encouraging more and more broadband providers to enter the market.

[36] 2006 High-Speed Access Report, Table 7.

Finally, millions of people in the U.S. access broadband services through multiple platforms and access points. The United States has more Internet and broadband users and more WiFi hot spots than any country in the world.[37] There are 211 million Internet users in the United States.[38] The total number of WiFi hotspots is estimated to be almost 50,000.[39] These hotspots are in community centers, libraries, airports, and coffee shops across America. They allow thousands of non-subscribers access to the Internet. Furthermore, companies such as Clearwire are offering innovative WiMAX-class solutions that go beyond what the typical WiFi hot spot provides. Clearwire either owns or leases the spectrum over which it broadcasts its signal, providing a high-quality connection not subject to interference, and a secure portal not available when using the Internet in a hot spot. The auction of 700 MHz spectrum is anxiously awaited by a broad array of companies because, as Chairman Martin recognizes, the auction is the "single most important opportunity to improve the availability and cost of broadband services."[40]

This competitive market is the touchstone of whether advanced services are being deployed to all Americans on a reasonable and timely basis. Growth of broadband has been very strong in lower income households, and broadband penetration is growing in rural areas. Consumer demand is largely being met. Market flexibility is the key to expanding the reach of broadband to as yet unserved households.

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[37] Letter from Ambassador David A. Gross, United States Coordinator – International Communications and Information Policy, to Angel Gurria, Secretary-General, Organisation of Economic Co-operation and Development, Paris, France (April 24, 2007).
[38] *See* "Fact Sheet: United States Maintains Information and Communication Technology (ICT) Leadership and Economic Strength," National Telecommunications Information Administration available at http://www.ntia.doc.gov/ntiahome/press/2007/ICTleader_042407.html.
[39] *Id*.
[40] *See* BroadbandReports.com at http://www.dslreports.com/shownews/83328.

IV. A Variety Of Actions Will Speed Advanced Services Deployment To Remaining Underserved Areas.

Many USTelecom members still face barriers to wider broadband deployment. The challenges to building out broadband across America could be decreased, if not eliminated altogether, with the proper allocation of political and economic resources. As President Bush has stated, the key to ensuring that broadband reaches all corners of the country, is to make it affordable.[41] There are parts of the country where today's marketplace alone is incapable of attracting the investment necessary to build broadband networks and deploy advanced services that are affordable. To that end, USTelecom members support a number of legislative and policy initiatives to promote broadband deployment and make it affordable, such as:

- Modest changes in RUS program,[42] including better targeting of areas currently not served, enhanced incentives for investment in areas not served, expansion of program eligibility, and improved processing of loans at USDA;

- public/private partnerships such as Connect Kentucky[43] to encourage the spread of broadband to unserved areas;

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[41] *See* USTelecom Comments, *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, GN Docket No. 04-54 (May 10, 2004), citing Remarks of President George W. Bush at the American Association of Community Colleges Annual Convention, Minneapolis, Minnesota, April 26, 2004.

[42] *See* Bobby White, "Tech's Cutting Edge? Try a Tiny Town," *The Wall Street Journal Online* (July 27, 2006) available at 2. The RUS lends small telecommunications carriers enough money to pay for 80% of a network upgrade. Since 2002, when this broadband program was enacted, 57 loans totaling more than $800 million have been given. USTelecom member, Monroe Telephone in Monroe, Oregon, which serves 950 homes over 50 square miles in western Oregon, took one and now offers its subscribers Internet protocol television.

[43] *See generally* http://www.connectkentucky.org/about/. Connect Kentucky has worked with the RUS broadband program but has gone much father than would have been possible with RUS alone. First, it mapped broadband availability in the whole state, something no other state has done. Second, it created technology teams in each community lacking broadband. These teams looked at computer ownership, technological literacy, and other factors that would increase the demand for broadband. The teams worked with broadband providers to match up new demand with new broadband deployments. By the end of 2007, Kentucky will go from having one of the

- programs to provide computers to households without them;[44]
- spectrum policy that promotes secondary markets for the purchase and use of spectrum;
- a speedy and efficient auction of 700 MHz spectrum;
- quick resolution of the issues regarding program access and unreasonable exclusive access contracts in MDUs;
- tax policies that would promote broadband deployment such as a permanent extension of the Internet Tax Moratorium, allowing for faster depreciation of broadband equipment and fiber, and creating a tax credit for the deployment of broadband equipment and fiber; and
- flexible business models, not net business regulation, that would allow companies to enter into cost-sharing agreements and other innovative arrangements to reduce the cost of a broadband subscription and to increase the value of subscribing to broadband service.

By supporting initiatives such as these, the Commission has the opportunity to encourage increased investment in and deployment of advanced networks, which will help make broadband available to and affordable for all Americans.

V. Current Definitions Are Workable and Realistic.

Delivering the advanced services that customers want is the goal for USTelecom members, and USTelecom members are always working to build facilities and develop technology that will allow them to provide consumers a range of broadband options, including higher-speed and lower-cost options. That said, USTelecom finds the Commission's current definition of advanced services and high speed as more than 200 kilobits per second (Kbps)

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lowest broadband subscription rates in the country to having broadband available to 100% of its households.

[44] *See Fatpipe* at 22 (Jan. 2006), source: The Yankee Group. Currently, 28% of U.S. households do not own a computer. Of 116 million U.S. households, 84.3 (or 72%) million own a personal computer.

acceptable.[45] The competitive market in the United States in which broadband is delivered by hundreds of providers over multiple platforms ensures that there are many different offerings ranging in speed available to consumers. Furthermore, all of these offerings allow for an always-on Internet connection at home, which consumers value highly. Consumers themselves are in the best position to gauge the value to them of the different offerings available, considering not just speed but price and reliability. USTelecom members find that many of their customers choose lower-priced, entry-level DSL products. The Commission should not substitute its judgment of what is adequate speed for that of consumers. Cutting off entry-level options will only discourage broadband adoption. Given so much consumer choice and consumer demand for current offerings, it would be premature for the Commission to abandon the 200 Kbps definition of a high-speed service.

USTelecom acknowledges that it may be appropriate for the Commission to add additional categories of broadband service while maintaining the 200 Kbps definition of high-speed service. The Commission already takes a multi-tiered approach to gathering information on advanced services available in the market today. This approach is reasonable, and the Commission should continue to track technological advances in the delivery speed of broadband services in the future. But the Commission should not pose undue burdens on broadband providers through data reporting requirements, and it should not take steps that could limit the availability of 200 Kbps-speed broadband that consumers currently use and value. USTelecom looks forwarding to commenting further on the definition of high speed services in its comments

[45] *See* NOI at ¶ 12. The Commission's current definition of "advanced services" is services and facilities with an upstream and downstream transmission speed of more than 200 Kbps per second. The Commission defines "high speed" as services and facilities with over 200 Kbps capacity in at least one direction.

on the broadband Notice of Proposed Rulemaking released by the Commission on April 16, 2007.[46]

CONCLUSION

Due in large part to the Commission's commitment to establishing a minimal regulatory environment for broadband deployment, advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion. The Commission should, therefore, continue to follow its laudable course of encouraging innovation and investment in broadband through market-oriented policies. These policies have resulted in fair and vigorous competition that will expand broadband's reach to all Americans.

Respectfully submitted,

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[46] *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to all Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership,* WC Docket No. 07-38, Notice of Proposed Rulemaking (rel. April 16, 2007).